

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1379

To be submitted by
MARK E. ARROLL

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Respondent,

-against-

CLARK BRACKWELL a/k/a JOHN CLARK,

Defendant-Appellant.

APPENDIX OF DEFENDANT-APPELLANT



MARK E. ARROLL, ESQ.
Attorney for Defendant-Appellant
Office & P. O. Address
261 Broadway
New York, New York 10007
(212) 732-3375

PAGINATION AS IN ORIGINAL COPY

CRIMINAL DOCKET - U.S. District Court

PETTY OFFENSE PG 1 JUDGE/MAGISTRATE: Assigned U.S. 0203 U1 0844

OTHER MINOR OFFENSE NO 0831 / 76 0863 C

OTHER MINOR OFFENSE NO 0203 U1 0844

PELONY Fel X (Check One)

BRACEWELL, CLARK
a/k/a John Clark

(LAST, FIRST, MIDDLE)

Case File # 0831 / 76 0863 C

No. of Days 01

JUVENILE

U.S. TITLE/SECTION OFFENSES CHARGED ORIGINAL COUNTS

21:846 Consp. to viol. Fed. Narco. Laws. 1

21:812, 841 Possess. & distr. of liquid hashish. 2

21:812, 951, 952 Importation of liquid hashish. 3

21:846 Consp. to viol. Federal Narcotics Laws 1

21:812, 841 Possess. & distr. of liquid hashish, I. 2

21:812, 951, 952 Importation of liquid hashish, I. 3

& 960

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Begins 8-30-76 High Risk Date 8-30-76 Information 8-30-76

Summons Served Indict Waived

First Appearance In Charging District

Superseding Indict Info 12-9-76

ARRAIGNMENT 9-9-76 Trial Set For 12-20-76

9-9-76 Trial Begins 12-20-76

Final Plea Trial Ended 12-22-76

Superseding Counts

U.S. MAG. CASE NO 76-955

DATE RECEIVED

AMT. Set ☐ Fugitive ☐ ☐ Pers. Return ☐ PSA ☐ Condition ☐ ☐ Date ☐ ☐ Bail Not Made ☐ Collateral ☐ ☐ Status Changed (See Docket) ☐ Ind. ☐ Phy Cust. ☐ Other

SENTENCE 2-4-77

Disposing of Case ☒ Convicted ☒ On All Charges ☒ On Lesser Charge ☐ Acquitted ☐ Dismissed ☐ WOP ☐ WWP ☐ On Government Motion

MAGISTRATE

Search Warrant Issued ☐ Return ☐ Summons Issued ☐ Served ☐ Arrest Warrant Issued ☐ COMPLAINT 8/19/76 MDJ-08AB 8/19/76 MDJ-08AB

OFFENSE (In Complaint) 21 USC 952(a) - UNLAWFULLY IMPORT A NARCOTIC DRUG

INITIAL APPEARANCE DATE PRELIMINARY EXAMINATION OR REMOVAL HEARING ☐ WAIVED ☐ NOT WAIVED ☐ INTERVENING MOVEMENT

INITIAL/NO OUTCOME

HELD FOR OR OTHER PROCEEDINGS IN THIS DISTRICT

HELD FOR OR OTHER PROCEEDINGS IN OTHER DISTRICT

U.S. Attorney or Asst.

Nathaniel H. Akerman
791-1957

ATTORNEYS

James A. Pascarella, Esq.
The Lever Bldg., Suite 352
114 Old Country Road
Mineola, New York 11501 (516) 742-4952

Show last names and initials of other defendants on same indictment information

DATE (DOCUMENT NO.) PROCEEDINGS EXCLUDABLE DELAY

8/19/76 Complaint filed, warrant issued

8/31/76 Indictment filed, 76 Cr. 803

8-31-76 Bail fixed by the Court in the amount of \$50,000. Cash or Surety. Werker,

9-9-76 Deft. and counsel not present. Court directs a not guilty plea be entered. Case assigned to Tenney, J...Haight, J.

9-27-76 Received Warrant of arrest from the district of California with Marshals return executed 9-29-76.

10-13-76 Filed CJA 20 appointment of counsel James A. Pascarella. Jacobs, Mag. issued all copies.

10-15-76 Deft. (atty. James Pascarella) pretrial conf. held. 10 days for motions. Tenney, J. 2 10-15 E

11-11-76 Deft. (atty. James Pascarella) atty. moves to withdraw from case. Motion granted upon appointment of new counsel. Tenney, J.

11-19-76 Filed deft's notice of motion re: Grand Jury minutes, etc.

11-26-76 Filed Govt's affdvt. re: response to deft. Bracewell's notice of motion.

12-9-76 Filed Superseding Indictment & referred to Tenney, J.Motley, J.

E.F.

A

COMPARE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(b)

IV. PROCEEDINGS (continued)		PAGE TWO		V. EXCLUDABLE DELAY	
DATE	DESCRIPTION	Initial Date	Final Date	Excludable Delay	Excludable Reason
12-14-76	Filed Opinion # 45436- deff's motions disposed of as follows: challenge to the Grand Jury indictment - denied bill of particulars - granted to extent indicated reference to the alias- denied bail - reduction of bail denied. Suppression of evidence - denied. Tenney, J. m/n				
12-15-76	Filed letter from Mark E. Arroll to Judge Tenney dated 12-5-76 re: bill of particulars.				
12-20-76	Jury trial begun before Judge Tenney.				
12-21-76	Trial cont'd.				
12-22-76	Trial cont'd. and concluded. Jury found deff. guilty on cts 1, 2 & 3. P.S.I. ordered. Sentence adj'd. until 1-21-77 at 2PM. Deft. remanded. (no bail). Tenney, J.				
02-01-77	Filed deff's notice of motion re: new trial, arrest of judgment pursuant to FRCrP 34, etc. ret: 2-4-77.				
01-31-77	Filed transcript of record of proceedings, dated: December 20, 21, 22, 1976.				
02-04-77	Ecfr. (atty. present) motion to nolle orig. charges-granted. Tenney, J.				
02-04-77	Filed Judgment (atty. Mark Arroll) Cts. 1, 2 & 3- 4 yrs. impr. ea. ct. conc. 3 yrs. S.P. 21:841. Tenney, J. issued all copies.				
02-14-77	Filed deff's notice of appeal from judgment of 2-4-77. mailed notice to deff. & U.S. Atty.				
02-07-77	Leave to file appeal in forma pauperis is granted. Tenney, J. Filed memo-end. on motion docketed 2-1-77. Motion denied. Tenney, J. m/n				
03-01-77	Filed copy of J&C with Marshal's return. Deft. delivered to MCC on 2-4-77.				
03-03-77	Filed Notice that original record on appeal has been certified and transmitted to USCA, 2nd Circuit.				
3-7-77	Filed transcript record of proceedings dtd: 3-7-77				
03-07-77	Filed Notice that Supplemental record on appeal has been certified and transmitted to USCA, 2nd Circuit.				
03-24-77	Filed CJA 20 appt. of counsel - Mark E. Arroll, 261 Bway, NY, NY 732-3375. Tenney, J. issued all copies.				
03-24-77	Filed CJA 20 -approval of counsel-Mark E. Arroll, Tenney, J. issued all copies.				
03-17-77	Filed a true copy of an order of the U.S.C.A re: the Jdgm. of the dist. Court is affirmed. Clerk Jdgm Entered 5-18-77 R. Burghardt Clerk. m/n				
8/12/77	FLd memo end on entry docketed 6/23/77 re: motion granted a separate order to be entered directing payment, TENNEY J m/n				
6/30/77	FLd affirmation in oppos & crossmotion re the govts motion to have money order deposit in the Treasury.				
8/12/77	FLd memo end on entry docketed 6/30/77 re motion denied TENNEY J. m/n				

EXCLUDABLE DELAY
For information
See 18 USC § 3161(b)
U.S.C. 3161(b)

A. Failure to
appear for trial
or to appear for
hearing after
being lawfully
arrested (18
U.S.C. 3161(b))

B. Failure to
appear for trial
or to appear for
hearing after
being lawfully
arrested (18
U.S.C. 3161(b))

C. Failure to
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or to appear for
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U.S.C. 3161(b))

D. Failure to
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H. Failure to
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arrested (18
U.S.C. 3161(b))

I. Failure to
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U.S.C. 3161(b))

J. Failure to
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U.S.C. 3161(b))

K. Failure to
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L. Failure to
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M. Failure to
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S. Failure to
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U.S.C. 3161(b))

T. Failure to
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U.S.C. 3161(b))

U. Failure to
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V. Failure to
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U.S.C. 3161(b))

W. Failure to
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U.S.C. 3161(b))

X. Failure to
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arrested (18
U.S.C. 3161(b))

Y. Failure to
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arrested (18
U.S.C. 3161(b))

Z. Failure to
appear for trial
or to appear for
hearing after
being lawfully
arrested (18
U.S.C. 3161(b))

B

Richard F. Bennett

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U.S. vs

CLARK BRACEWELL

76 v1 863

Vr. | Docket No. | Def.

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
	(Document No.)	(a)	(b)	(c)	(d)
8/12/77	Fid: Order that fund in the amt. of \$1,950.00 be paid by the Drug Enforcement Admin to the Treasury of the U.S.A. (Fund of Clark Bracewell) as reimbursement fro a voucher. TENNEY J. m/n				
8/22/77	Fid Notice of Appeal by dft to the U.S.CA. from the order entered 8/12/77 m/n				

C

A TRUE COPY
RAYMOND F. BURCHARDT, Clerk
By *[Signature]* Deputy Clerk

AO 256A

Interval (per Section 11) | Start Date | End Date | Ltr. Code | Total Day

Raymond F. Burchardt

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

CLARK BRACEWELL

a/k/a John Clark

Defendant

INDICTMENT

76 Cr.

The Grand Jury charges:

1. From on or about the 1st day of August, 1976, and continuously thereafter up to and including the date of the filing of this Indictment, in the Southern District of New York, CLARK BRACEWELL a/k/a John Clark the defendant, Helen Brown, named herein as a co-conspirator but not as a defendant and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendant and Helen Brown, named herein as a co-conspirator but not as a defendant, unlawfully, intentionally and knowingly would distribute and possess with intent to distribute a Schedule I controlled substance the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the object thereof, the following overt acts were committed

1. On or about August 5, 1976, the defendant, CLARK BRACEWELL, a/k/a John Clark and co-conspirator Helen Brown, had a conversation in London, England.

2. On or about August 5, 1976, the defendant CLARK BRACEWELL, a/k/a John Clark, gave co-conspirator Helen Brown in London, England a suitcase with a false bottom containing approximately five pounds of liquid hashish.

3. On or about August 11, 1976, the defendant, CLARK BRACEWELL, a/k/a John Clark, arrived from London, England by airplane at Kennedy Airport, New York.

4. On or about August 12, 1976, Helen Brown, disembarked in the port of New York from the ship, the Queen Elizabeth II, carrying the suitcase with a false bottom containing approximately five pounds of liquid hashish.

(Title 21, United States Code, Section 846).

COUNT TWO

The Grand Jury further charges:

On or about the 12th day of August, 1976, in the Southern District of New York, CLARK BRACEWELL, a/k/a John Clark, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I controlled substance, to wit, approximately five pounds of liquid hashish.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 12th day of August, 1976, in the Southern District of New York, CLARK BRACEWELL, a/k/a John

Clerk, did unlawfully, wilfully, knowingly and intentionally import into the customs territory of and into the United States from a place outside thereof, a Schedule I controlled substance, to wit, approximately five pounds of liquid hashish.

(Title 21, United States Code, Sections 812, 951, 952, and 960; Title 18 United States Code, Section 2.)

FOREMAN

ROBERT B. FISKE, JR.
United States Attorney

1. On or about August 5, 1976, the defendant,
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK and co-conspirator Helen

UNITED STATES OF AMERICA

CLARK BRACEWELL, a/k/a John Clark, born [redacted] INDICTMENT

CLARK BRACEWELL
a/k/a John Clark, [redacted] S 76 Cr. 863
[redacted] Defendant.

CLARK BRACEWELL, a/k/a John Clark, arrived from London, Eng-
land by airplane [redacted]
The Grand Jury charges:

1. From on or about the 1st day of March, 1976,
and continuously thereafter up to and including the date of
the filing of this Indictment, in the Southern District of
New York, CLARK BRACEWELL a/k/a John Clark the defendant,
Helen Brown, named herein as a co-conspirator but not as a
defendant and others to the Grand Jury unknown, unlawfully,
intentionally and knowingly combined, conspired, confederated
and agreed together and with each other to violate Sections
812, 841(a) and 841(b)(1)(A) of Title 21, United States Code.
2. It was part of said conspiracy that the said
defendant and Helen Brown, named herein as a co-conspirator
but not as a defendant, unlawfully, intentionally and know-
ingly would distribute and possess with intent to distribute
a Schedule I controlled substance the exact amount thereof
being to the Grand Jury unknown in violation of Sections
812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States
Code.

dispossession with intent to distribute a Schedule I controlled
substance, to wit, [redacted] OVERT ACTS [redacted]

In pursuance of the said conspiracy and to effect
the objects thereof, the following overt acts were committed

CLARK BRACEWELL

The Grand Jury further charges:

CLARK BRACEWELL, a/k/a John Clark and co-conspirator Helen Brown, had a conversation in London, England. . . . d has-

h.h.h. 2. On or about August 5, 1976, the defendant CLARK BRACEWELL, a/k/a John Clark, gave co-conspirator Helen Brown in London, England a suitcase with a false bottom containing approximately five pounds of liquid hashish.

3. On or about August 11, 1976, the defendant, CLARK BRACEWELL, a/k/a John Clark, arrived from London, England by airplane at Kennedy Airport, New York.

4. On or about August 11, 1976, the defendant CLARK BRACEWELL, a/k/a John Clark, wrote a false address on a United States Customs Declaration at Kennedy Airport, New York.

5. On or about August 12, 1976, Helen Brown, disembarked in the port of New York from the ship, the Queen Elizabeth II, carrying the suitcase with a false bottom containing approximately five pounds of liquid hashish.

6. On or about August 25, 1976, the defendant CLARK BRACEWELL, a/k/a John Clark, sent from Huntington Beach, California a \$1,000 Western Union money order to Helen Brown.

(Title 21, United States Code, Section 846).

COUNT TWO

The Grand Jury further charges:

On or about the 12th day of August, 1976, in the Southern District of New York, CLARK BRACEWELL, a/k/a John Clark, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I controlled substance, to wit, approximately five pounds of liquid hashish.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 12th day of August, 1976, in the

Clark, did unlawfully, wilfully, knowingly and intentionally import into the customs territory of and into the United States from a place outside thereof, a Schedule I controlled substance, to wit, approximately five pounds of liquid hashish.

(Title 21, United States Code, Sections 812, 951, 952, and 960; Title 18 United States Code, Section 2.)

FOREMAN

ROBERT B. FISKE, JR.
United States Attorney

Dec 9, 1976